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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/561,331

12/16/2005

Marshall Graham Bailey

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11/17/2008

GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C

PO BOX 7021

TROY, MI 48007-7021

EXAMINER

KURTZ, BENJAMIN M

ART UNIT

PAPER NUMBER

1797

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/561,331	<b>Applicant(s)</b> BAILEY, MARSHALL GRAHAM	
	<b>Examiner</b> BENJAMIN KURTZ	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 6/11/08 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear from the claim language if the basket, the stack of screen assemblies or the flow directing tray is provided with a flow distributor. For examination purposes, it is assumed the basket is provided with a flow distributor.

Claim 4 recites the limitation "said first screen assembly" in line 4. There is insufficient antecedent basis for this limitation in the claim. For examination purposes said first screen assembly is assumed to be said first remaining screen assembly.

Claims 2-18 are also rejected as containing the same defects as claim 1.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**3. Claims 1, 2, 6-8 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Eppenberger US 2 901 109.**

Claim 1, Eppenberger teaches a basket, the basket mounting a stack of at least three screen assemblies (10), with superposed screen assemblies separated from each other by a respective flow directing tray (11), and including a flow distributor (20) formed and arranged for receiving filtrate from a primary upper screen assembly and dividing the filtrate into at least a first feed stream and a second feed stream and directing the feed streams onto remaining first and second ones of the stack of screen assemblies, and receiving filtrate from a respective remaining screen assembly, from the respective flow directing tray (fig. 4). The recitation of the basket being suitable for use in a vibratory screening apparatus, for use in removing solids from a liquid and solids mixture feed is a recitation of intended use and does not further structurally limit the basket.

Claim 2, this claim is directed to a basket but recites structural limitations directed to a vibratory screening apparatus. The structure recited in the claim does not add any further structural limitations to the apparatus to which it is directed, mainly the basket. Eppenberger teaches the basket of claim 1 and is therefore deemed to meet the limitations of the claim.

Claims 6-8 and 14, Eppenberger further teaches the basket further comprises a stack of three screen assemblies (fig. 4); at least the primary screen assembly has a different mesh size from at least one of the remaining screen assemblies (col. 3, lines 50-60); the first and second remaining screen assemblies have the same mesh size (col. 3, lines 50-60); the flow distributor is mounted on the basket (fig. 4);

**4. Claims 1-3, 5-10, 14 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmidt US 4 322 288.**

Claim 1, Schmidt teaches a basket, the basket mounting a stack of at least three screen assemblies (2a-c, 14a-b), with superposed screen assemblies separated from each other by a respective flow directing tray (4a-c, 16a-b), and including a flow distributor (12, 20, 54, 36) formed and arranged for receiving filtrate from a primary upper screen assembly and dividing the filtrate into at least a first feed stream and a second feed stream and directing the feed streams onto remaining first and second ones of the stack of screen assemblies, and receiving filtrate from a respective remaining screen assembly, from the respective flow directing tray (fig. 1). The

recitation of the basket being suitable for use in a vibratory screening apparatus, for use in removing solids from a liquid and solids mixture feed is a recitation of intended use and does not further structurally limit the basket.

Claim 2, this claim is directed to a basket but recites structural limitations directed to a vibratory screening apparatus. The structure recited in the claim does not add any further structural limitations to the apparatus to which it is directed, mainly the basket. Schmidt teaches the basket of claim 1 and is therefore deemed to meet the limitations of the claim.

Claims 3, 5-10, 14 and 18, Schmidt further teaches the flow distributor is formed and arranged to be switchable between a plurality of flow directing configurations (fig. 4, col. 3, lines 37-51); the plurality of flow directing configurations includes an restricted feed capacity configuration in which the whole of the feed is directed onto only one of the first and second remaining screen assemblies and the filtrate therefrom exhausted from the apparatus without passing through the other one of the first and second screen assemblies (fig. 1); the basket further comprises a stack of three screen assemblies (fig. 1); at least the primary screen assembly has a different mesh size from at least one of the remaining screen assemblies (col. 2, lines 27-36); the first and second remaining screen assemblies have the same mesh size (col. 2, lines 27-36); the flow distributor defines a plurality of flow pathways provided with flow control devices selectively opening or at least partially closing different passages (fig. 1); at least one of the flow control devices is a flap valve (46) (fig. 1); the flow distributor is mounted on the basket (fig. 1); and the flow directing trays are formed and arranged so that substantially the

whole of the filtrate from a screen assembly directly above the flow direction tray can be intercepted thereby, whereby the feed can be substantially fully divided into parallel first and second feed streams to respective ones of first and second remaining screen assemblies (fig. 1, 2).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**5. Claims 1-6, 9-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiseman US 6 530 482.**

Claims 1 and 6, Wiseman teaches a basket (22), the basket mounting a stack of screen assemblies (14, 18), with superposed screen assemblies separated from each other by a respective flow directing tray (30), and including a flow distributor (36, 26, 28) formed and arranged for receiving filtrate from a primary upper screen assembly and dividing the filtrate into at least a first feed stream and a second feed stream and directing the feed streams onto the remaining screen assembly, and receiving filtrate from a respective remaining screen assembly, from the respective flow directing tray (fig. 3, 4, col. 3, lines 37-51). The recitation of the basket being suitable for use in a

vibratory screening apparatus, for use in removing solids from a liquid and solids mixture feed is a recitation of intended use and does not further structurally limit the basket. Wiseman does not teach at least three screen assemblies but only two screen assemblies. The addition of a third screen assembly is a mere duplication of parts. Mere duplication of parts has no patentable significance unless a new and unexpected result is produced, *In re Harza*, 124 USPQ 378 (1960).

Claim 2, this claim is directed to a basket but recites structural limitations directed to a vibratory screening apparatus. The structure recited in the claim does not add any further structural limitations to the apparatus to which it is directed, mainly the basket. Wiseman teaches the basket of claim 1 and is therefore deemed to meet the limitations of the claim. Wiseman further teaches, however, the vibratory screening apparatus comprising a feed (82) a static outer housing (12), the housing comprising: a base support (12) mounting a basket (22) in floating manner, a vibrator device (24), the base support having a sump (38) and the housing having a feed device (36) formed and arranged for directing the fluid to be treated to the basket (fig. 1).

Claim 3, Wiseman further teaches the flow distributor is formed and arranged so as to be switchable between a plurality of different flow direction configurations (fig. 3, 4, col. 3, lines 37-51).

Claim 4, Wiseman teaches the plurality of flow directing configurations includes an intensive screening configuration in which the whole of the feed is directed onto the remaining screen assembly (fig. 3, 4, col. 3, lines 37-51). It would have been obvious to add a second remaining screen assembly as detailed above. Wiseman teaches the



screen assemblies are run in a series configuration. Operating a filtering apparatus in series is very well known and would have been obvious to one of ordinary skill in the art at the time of the invention.

Claim 5, Wiseman teaches the plurality of flow directing configurations includes a restricted feed capacity configuration in which the whole of the feed is directed onto only one of the screen assemblies and the filtrate is exhausted directly from the apparatus without passing through the other screen assembly (fig. 3, 4, col. 3, lines 37-51).

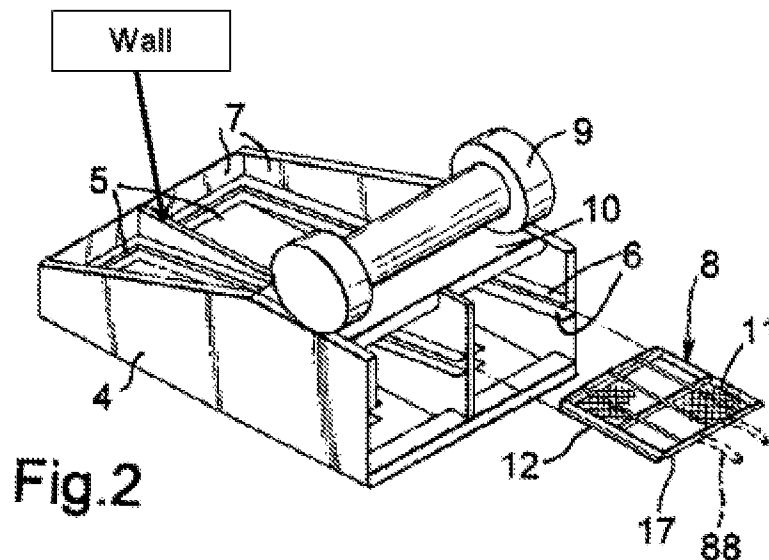
Claims 9-12 and 14, Wiseman further teaches the flow distributor defines a plurality of flow pathways provided with flow control devices for selectively opening or at least partially closing of different passages (fig. 3, 4, col. 3, lines 37-51); the flow control device is a closure plate or valve (col. 3, lines 54-57); at least one flow control device comprises a weir (col. 4, lines 55-63); the weir being a variable height weir (col. 4, lines 55-63); and the flow distributor is mounted on the basket (fig. 3).

**6. Claims 13, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiseman '482 as applied to claims 2 and 9 above, and further in view of WO 03/013690 (US 7 216 768 is the US equivalent).**

Claims 13, 16 and 17, Wiseman teaches the basket of claim 9 but does not teach the flow distributor including a wall, the basket forming part of a multi basket assembly or the basket including a lateral divider. WO teaches a basket comprising a flow distributor comprising a wall/lateral divider (see below) formed and arranged to define a

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plurality of laterally adjacent flow pathways and the basket comprising having a multi-basket assembly comprising a plurality of baskets (5) (fig. 2, below). The claim would have been obvious because all the claimed elements were known in the prior art and one skilled in the art could have combined the elements by known methods with no change in their respective functions and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention, *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (2007).



7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiseman '482 as applied to claim 1 above, and further in view of Roff Jr. US 5 593 582 and Muller US 4 319 990.

Wiseman teaches the basket of claim 1 but does not teach the flow distributor being coupled to the basket by flexible conduits. Roff teaches a flow distributor (65) that is attached to a stationary, in relation to a basket (35), housing for the basket (fig. 2-5). Muller teaches flexible conduits (59) for connecting inlets and outlets to and from the basket to stationary elements of a frame (fig. 4, col. 10, lines 54-68). Not having the flow distributor mounted on the basket but to a stationary frame is known in the prior art to Roff and coupling a basket's inlets and outlets to stationary elements is known in the prior art to Muller. The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of one skilled in the art, *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (2007).

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENJAMIN KURTZ whose telephone number is (571)272-8211. The examiner can normally be reached on Monday through Friday 8:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Benjamin Kurtz  
Examiner  
Art Unit 1797

/Benjamin Kurtz/  
Examiner, Art Unit 1797  
11/12/08

/Krishnan S Menon/  
Primary Examiner, Art Unit 1797